

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Calderon Analyst: Gloria McConnell Bill Number: AB 780

Related Bills: _____ Telephone: 845-4336 Amended Date: 05/06/99

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Public Entities Report to EDD Names and SSA of Contractors

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as amended 04/13/99.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED 04/13/99 STILL APPLIES.

OTHER - See comments below.

SUMMARY OF BILL

The bill would require public entities and contractors or subcontractors of public entities to report the following information to Employment Development Department (EDD) for inclusion in its new employee registry (NER), unless otherwise reported to EDD under current law:

1. Each public entity that makes state loans or grants would report the recipient's name, address, social security number (SSN) and the recipient's employer's name;
2. Each public entity, including the Franchise Tax Board (FTB), would report the name and SSN of each individual (sole proprietor) that contracts with the entity, unless otherwise reported to EDD under current law. In the event the contractor is a corporation or partnership, the name and SSN of the "responsible managing person" would be reported; and
3. Each contractor or subcontractor who contracts or submits a bid to contract with the state would report the name and SSN of each employee who will perform work on the state contract, unless otherwise reported to EDD under current law.

The bill describes the form and manner for reporting to EDD and provides the period during which the reported information would be retained by EDD.

SUMMARY OF AMENDMENT

This amendment delays the operative date from July 1, 2000 to January 1, 2001.

ADDITIONAL COMMENT

This analysis reiterates the Policy Considerations, Implementation Considerations and Fiscal Impact identified in FTB previous analysis of the bill, as amended April 13, 1999.

Board Position:

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<u> </u> N	<u> </u> OUA	<u> </u> X PENDING

Department/Legislative Director

Date

Johnnie Lou Rosas

8/06/1999

Implementation Considerations

This bill would affect FTB as:

1. A contracting state agency. FTB would be required to report the names and SSN of each sole proprietor or the "responsible managing person" with which it contracts. Given that FTB's contracts would not be executed in mass on a given day, this analysis assumes it would report to EDD by paper document. The following implementation considerations are identified with respect to this reporting requirement:

- Because this bill would be operative on July 1, 2001, it is presumed that the reporting requirement is not intended to apply to contracts in existence on that date. To avoid confusion, the bill should expressly provide that the act would apply only to contracts either first executed and/or extended or renewed on or after July 1, 2001.
- The majority of FTB's contracts are with corporations, and certain major contracts are with partnerships. For these contractors, the bill requires the reporting of the name and SSN of the "responsible managing person." It is unclear whether all corporations and partnerships have a designated "responsible managing person."

Also, the bill provides no consequences if the contracting corporation's or partnership's "responsible managing person" refuses to furnish this information for reporting purposes.

2. A collector of delinquent child support. Staff anticipated that the information required to be reported under this bill could be used to issue withholding orders to collect delinquent child support owed by persons who are being reported. However, to maximize the enhancement to FTB's child support collection program and limit unnecessary reporting to EDD, the following implementation considerations are identified:

- The bill would require every public entity making a state loan or grant to report the recipient's SSN and employer's name. It is unclear the purpose for the reporting. If the recipient of the loan/grant were an employee, this employee/employer information would have already been reported under the current NER requirements. It is also unclear whether the intent is to make the grant or loan amount subject to collection for the delinquent child support and whether, if that is the intent, it would constitute a default of the loan or grant if the payment were intercepted through a withholding order for child support rather than for the purpose for which the loan was intended (i.e., small business loan, educational financial aid).
- The bill should require the entity or contractor to report, and EDD to retain, the name and address where a withholding order could be issued, if other than the name and address of the reporting entity. For example, the contract may be executed and reported by XXX Agency at its headquarters office address but payable by the Treasurer, Controller or at a branch address. To be most effective, FTB's withholding order should be issued to the "payable" address.

In addition, FTB would need to know if the reported information pertains to an employee, contractor, responsible managing person or loan/grant recipient to determine the type of withholding order it should issue, if any. For instance, FTB would issue a child support earnings withholding order for employees and sole proprietor contractors who are obligors, but would not want to issue one against the responsible managing person or loan/grant recipient unless, of course, they were obligors otherwise reported as employees.

- For FTB to attach payments made to subcontractors who are sole proprietors, the bill should be amended to require that contractors report their own names and addresses and the names and SSNs of their subcontractors who are sole proprietors.

Technical Considerations

Section 3303 (c)(1)(B) provides penalties for "employers" who fail to comply with the section's reporting requirements consistent with federal penalties for failure to report to the NER. However, California has adopted its own penalties (Unemployment Insurance Code, Section 1088.5(e)). Therefore, it is unclear whether reference under this bill (page 6, line 21) should be made to the state penalties instead of federal penalties. Additionally, reference to "employers" in the context of complying with the sections' reporting requirements (page 6, line 22) should be "public entities."

FISCAL IMPACT

Departmental Costs

Currently, EDD charges FTB for its use of the NER for child support purposes. To implement this bill, it is uncertain whether EDD would create a registry for this contractor information in addition to the NER or would incorporate the contractor information into the NER. However, preliminary discussion with EDD indicates that an additional registry would be created to administer this bill. If EDD were to charge FTB to use the contractor registry an amount comparable to the amount charged to use the NER information, FTB's departmental costs would increase in the \$6,000 to \$10,000 range. That cost would be included in the child support collection program's annual budget, of which 66% is paid through federal reimbursement and 34% from the General Fund.

FTB staff anticipates that the other following costs associated with the bill would be accommodated within FTB's existing budget: (1) reporting of contract information requirements to EDD, (2) processing of any withholding orders that may be received by the department as a result of the matching of data between FTB and EDD, and (3) processing of payments received as a result of the withholding orders issued to the reporting state agency.

Collection Estimate

Based on the results of the FTB's current child support collection program, information from the DSS, and available information from 1099 non-employee compensation reporting under current law, the additional information reporting required by public entities under Section 4 of this bill would accelerate or provide additional collections of delinquent child support on the order of \$500,000 annually.

This analysis assumes the reported information would be captured by EDD and available to FTB in a form and manner that FTB can use, as discussed under implementation considerations. This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this bill.

BOARD POSITION

Pending.